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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,908	11/21/2000	Mitsuo Watanabe	001539	3329

23850 7590 05/16/2005

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

EXAMINER

AUGHENBAUGH, WALTER

ART UNIT PAPER NUMBER

1772

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/700,908	Applicant(s) WATANABE ET AL.	
	Examiner Walter B. Aughenbaugh	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-25 is/are pending in the application.
 4a) Of the above claim(s) 1-10 and 18-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 14-17 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Response filed February 11, 2005 has been received and considered by Examiner.

No amendments were made in the Response filed February 11, 2005.

Response to Arguments

2. Applicant's arguments presented on pages 2-4 of the Response filed February 11, 2005 in regard to the 35 U.S.C. 102 rejection of claims 25, 11, 12 and 16 have been fully considered but are not persuasive. Applicant argues in the paragraph bridging pages 2 and 3 of the Response filed February 11, 2005 that, since the claimed injection pressure range is not taught by Nakagawa, Nakagawa does not anticipate claim 25, but the claimed injection pressure range has not been given patentable weight since it is plainly a method limitation, as stated in paragraph 6 of the previous Office Action mailed September 14, 2004. Nakagawa anticipates claim 25 even though Nakagawa does not teach the claimed injection pressure range because the claimed injection pressure range has not been given patentable weight since it is a method limitation. The claimed injection pressure range does not positively recite any structural limitations of the final product of the claim.

The Office maintains that Applicant's argument that "a foam resin is precluded by the injection conditions in the present invention" due to the recitation of the injection pressure range in claim 25 is not supported. A statement or argument by the Applicant's representative is not factual evidence (MPEP 716.01(c) II). Applicant urges that the condition where a statement or argument by the Applicant's representative is not factual evidence only applies when Applicant's representative provides factual evidence of nonobviousness, and cites MPEP 716.01(d), but this is not the case (see MPEP 716.01(c) II). Applicant notes that the statement "a foam resin is

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precluded by the injection conditions in the present invention” is scientific reasoning: but Applicant has not provided any support for this scientific reasoning, so the Office maintains that Applicant’s argument that “a foam resin is precluded by the injection conditions in the present invention” due to the recitation of the injection pressure range in claim 25 is not supported.

The effectiveness of the Declaration filed under 37 CFR 1.132 filed February 11, 2005 is addressed below in this Office Action.

3. Applicant’s arguments presented on page 4 of the Response filed February 11, 2005 in regard to the 35 U.S.C. 103 rejection of claim 14 have been fully considered but are not persuasive. Applicant’s arguments depend entirely upon Applicant’s arguments regarding the 35 U.S.C. 102 rejection of claim 25, which have been addressed above.

4. Applicant’s arguments presented on pages 4-5 of the Response filed February 11, 2005 in regard to the 35 U.S.C. 103 rejection of claim 15 have been fully considered but are not persuasive. Applicant’s arguments depend in part upon Applicant’s arguments regarding the 35 U.S.C. 102 rejection of claim 25, which have been addressed above. Applicant argues that “the process limitation of claim 15 does affect the structure of the resulting article”, but no support is provided for this statement, and the structure of the article that results from the process limitation of claim 15 is not recited in the claim.

5. Applicant’s arguments presented on pages 5-6 of the Response filed February 11, 2005 in regard to the 35 U.S.C. 103 rejection of claim 17 have been fully considered but are not persuasive. Applicant’s arguments depend entirely upon Applicant’s arguments regarding the 35 U.S.C. 102 rejection of claim 25, which have been addressed above.

RESPONSE TO DECLARATION UNDER 37 CFR 1.132

6. The Declaration filed under 37 CFR 1.132 filed February 11, 2005 has been received and considered by Examiner. Applicant has submitted the Declaration in an attempt to provide support for the statement that “a foam resin is precluded by the injection conditions in the present invention” due to the recitation of the injection pressure range in claim 25. However, the Declaration does not provide convincing evidence that “a foam resin is precluded by the injection conditions in the present invention” due to the recitation of the injection pressure range in claim 25. The Declaration only discusses the product of the instant application and that which is stated in the instant application. The Nakagawa reference is not addressed in the Declaration, so there is no comparison in the Declaration between the product taught by Nakagawa and the product of the instant application. The product taught by Nakagawa and the product of the instant application must be compared in order to provide convincing evidence that “a foam resin is precluded by the injection conditions in the present invention” due to the recitation of the injection pressure range in claim 25. Furthermore, the last paragraph of page 2 of the Declaration provides information that contradicts that which is claimed in claim 25: specifically, it is stated in the last paragraph of page 2 of the Declaration that “[t]he average injection pressure inside the mold was 160 kgf/cm²”, a value which is outside of Applicant’s claimed range of “200 to 1000 kg/cm²”. The fact that “[t]he average injection pressure inside the mold was 160 kgf/cm²” does nothing to support the statement that “a foam resin is precluded by the injection conditions in the present invention” due to the recitation of the injection pressure range of “200 to 1000 kg/cm²”. The Declaration does not explain how consideration of points (1), (2) and (3) listed in page 2 of the Declaration would lead one to conclude that Nakagawa’s foam reinforcement layer “is

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precluded by the injection condition” of claim 25 of an injection pressure range of 200 to 1000 kg/cm².

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 6:00pm and on alternate Fridays from 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished


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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh

05/11/05

WBA


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

5/13/05